



BOARD OF BARBERING AND COSMETOLOGY
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
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**Board of Barbering and Cosmetology
Junipero Serra State Building
320 West 4th Street
Los Angeles, CA 90013**

MEETING OF THE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF OCTOBER 24, 2005

BOARD MEMBERS PRESENT:

Dr. Della M. Condon, President
Joe Gonzalez, Vice President
Richard Hedges
Frank Lloyd
Bonnie LaChappa
Marlene Gadinis
Angela Reddock

STAFF MEMBERS PRESENT:

Kristy Underwood, Interim Executive Officer
Albert Balingit, Staff Counsel
Gary Duke, Staff Counsel
Paul Cobb, Staff
Theresa Rister, Staff

1. Agenda Item #1, CALL TO ORDER/ROLL CALL

Dr. Condon called the meeting to order at 9:00 a.m. She welcomed the audience. The board members and staff introduced themselves.

2. Agenda Item #2, PRESIDENTS REPORT

Dr. Condon encouraged feedback from the public.

- a. **Workload Statistics:** Ms. Underwood reviewed the monthly workload statistics as of September. Staff has been making progress in the establishment licensing area, reducing the backlog by half. Applications are approximately four months behind. There is a 5 month wait to get into an exam, with 3,191 waiting. The backlog is being addressed by utilizing temporary help and new employees (2) in that unit. Mr. Hedges questioned the telephone answering statistics. Not all calls are ended due to frustration. More people have been added to the telephone system. Dr. Condon noted the necessity of having a standby system for exams as there are a lot of no shows.

3. Agenda Item #3, APPROVAL OF MEETING MINUTES

Upon a motion by Mr. Lloyd, seconded by Mr. Hedges, the minutes were approved by a 7-0 vote. Dr. Condon requested the members of the public be clearly identified when speaking.

4. Agenda Item #4, LEGISLATION AND REGULATIONS

a. AB 163 Update (Threading): Ms. Underwood noted AB 163 was vetoed by the Governor on October 7.

b. AB 1263 Update (Footspa Equipment): AB 1263 was also vetoed by the Governor. Dr. Condon noted her disappointment in the non communication from the Department of Consumer Affairs in opposing this bill. The majority of the Board agreed. Mr. Hedges recommended a letter be written to the Department of Consumer Affairs asking for their solution, since they opposed the bill. All agreed this was a positive way to approach it. Mr. Gonzalez requested the legislative analysis be distributed to all board members.

Public comment:

Kimberly Brady, San Jose Journalist, addressed the Board regarding pedicure safety. She recommended presenting personal testimonies to appeal to the Governor and the Department of Consumer Affairs. She discussed the short and long term affects of treatment after becoming infected. She showed pictures; Dr. Condon requested the pictures without faces become part of the public record. Brittany, a victim of an infection also addressed the Board. The salon she went to had just received their second fine for unsafe conditions. No signs were posted to inform the consumers. She asked the Board to concentrate on passing the regulations. Ms. Brady noted the salon rating regulations will not affect businesses who are doing the right thing, but will protect the consumers.

Glenda Day, Fullerton College, was concerned the Department of Consumer Affairs is not listening to the Board, who has the best interest of the public and the industry in focus.

Celia Assef, Fullerton College, noted this is not an isolated problem, it is ongoing. She Encouraged the Board to be aggressive with this issue.

Fred Jones, Professional Beauty Federation of California, noted his organization opposed the bill as it should have applied to all cosmetologists. He recommended future legislation is to authorize the regulators –this Board--to do the rating.

Mr. Hedges noted it is too late this year to submit the bill, but it should be brought up next year, with close cooperation of the Department of Consumer Affairs. Mr. Lloyd recommended a letter campaign to the Governor be started. Dr. Condon suggested, she will meet with Assembly Member Yee to collaborate with the bill. The Board agreed this is a very important issue. Mr. Hedges suggested the item be referred to the Legislative Committee.

c. Update on Proposed Regulations (Licensure by Endorsement): The regulations are currently going through the review process. Staff is working with the Department of Consumer Affairs for clarification and recommendations.

d. Update on Proposed Regulations (Passing Grades in Examinations) The regulations are currently going through the review process. Staff is working with the Department of Consumer Affairs for clarification and recommendations. Mr. Hedges hoped this process could be sped up to help Ms. Patterson and others. Ms. Patterson addressed the committee yesterday regarding her son's plight in passing the exam and obtaining his license. He suggested reciprocity for those who apply. Ms. Underwood noted any change in the regulation would have to be approved through public hearing. The Board did not want the process slowed. Mr. Hedges recalled the task force dealing with aggregate scoring; he was troubled it has not moved quicker. Dr. Condon suggested the regulations move forward with the retroactive piece moving separately so as not to delay the process. Dr. Condon requested a legal opinion. Legal counsel clarified the Board's request. He recommended staff be directed to draft a 15 day notice for public comment. A motion was made and seconded to add the proposed language to the present regulation, provide a 15 day notice and proceed forward with the regulation. Mr. Hedges requested to amend the motion to support the motion with proviso that it doesn't stop the Board from going forward with the current regulation. Dr. Condon suggested limiting the retroactivity to applicants within the past year.

Public Comment:

Fred Jones, Professional Beauty Federation of California, requested clarification on the regulation. He was referred to staff for further details.

Leann Patterson, public attendee, requested clarification on the timeframe. The regulation should be approved as regulation by January 2006. The Board was unsure of the time frame for implementation. Staff explained the complicated process and assured they would try to move quickly.

Linda Lamb, Redondo Beach Beauty College, discussed the history of aggregate scoring, its demise and the flexibility that has been used in the past. Dr. Condon referred her questions to staff as it was not related to the motion.

The motion was passed by unanimous vote. Dr. Condon clarified the 5 points would not be taken away from the practical, it is a credit. It protects the public. The Board's intent is on the record in previous meeting minutes when this issue was discussed thoroughly.

e. Update on Proposed Regulations (Pre-Application for Apprenticeship): Ms. Underwood reported this regulation is moving forward, the public hearing will be agendaized for the next Board meeting. She explained currently student applicants can pre-apply for the examination once a portion of schooling is completed, and given an examination date based on their tentative graduation date. The proposed regulation will allow an apprentice to pre-apply for their test date.

(The meeting was recessed for a 10 minute break)

5. Agenda Item #5, REPORT ON LICENSING AND EDUCATION COMMITTEE: Dr. Condon reported on the Licensing and Education Committee meeting which took place yesterday. The following issues were discussed:

a. Curriculum Review Task Force Update: The committee determined methodology needs to be looked at. Changes have occurred and need to be reviewed. Per direction from the Board, a task force will be formed to examine the curriculum, which has been established through regulation and statutes. It was recommended the information be put on the website to look for volunteers to serve on the task force. It was clarified the curriculum review would be done "across the board" in all areas of barbering and cosmetology. The committee recommended subcommittees for barbering and cosmetology under the umbrella of the larger committee in order to speed up the process. This would capitalize on people's expertise. Ms. Gadinis recommended the subcommittees should come back together to bring everything into one cohesive place. It was moved and seconded that the curriculum review process as defined by the committee be implemented. The motion was passed by a unanimous vote.

b. Review and Approval of the Regulatory Language for Apprentice Program Reforms: Ms. Underwood presented and reviewed the draft regulatory language. After discussions with legal counsel, a couple issues were brought up that she identified for the Board. Recommendations #4 and #5 require a statute change not a regulation change. Staff noted recommendation #1 is also under review at this time by legal counsel. It was moved and seconded that the rest of the regulatory package continues to move forward while the legislative empowerment is pursued for the other areas needing statute change. Staff clarified the language regarding ratio of apprentices, multi location apprentice, and curriculum will be moving forward immediately. Again legal research is continuing. The motion was amended to direct staff to develop legislative language and bring back to the Board.

Public Comment:

Jerry Tyler, Carlton Hair International, commended the Board for their action on this item. He was concerned about the apprentice ratio.

The motion was passed by a unanimous vote.

c. Review and Approval of the Regulatory Language for the Extern Program Reforms: Dr. Condon noted recommendations #2 (increases hours from 160 to 200 hours) and #5 (to include public schools) require legislative language for compliance. Staff will begin to prepare that language and submit it to the committee at the next meeting. It was moved and seconded that the rest of the regulatory package continues to move forward while the legislative empowerment is pursued for the other areas of recommendations 2 and 5 needing statute change. The motion was not passed with a 2-5 vote. A motion was made and seconded to continue the package in the regulatory process with the deletion of recommendations 2 and 5.

Public comment:

Jerry Tyler, Carlton Hair International, clarified the motion. He hoped the recommendation regarding public schools could move forward. The Board has the option to pursue that recommendation with losing everything else.

The motion passed by unanimous vote.

d. Current Fee Schedule Review and Recommendations: The recommendation of the committee was to conduct further study on the fee schedule. A motion was made and seconded to call for further study of the fee schedule before any recommendations are made. The motion passed by a unanimous vote. Mr. Lloyd recommended the issue be looked at periodically to look at costs, etc. Mr. Hedges hoped staff would keep the Board abreast of cost increases, and the need to cover those costs. Mr. Gonzalez expressed concern over the cost of exams at the Glendale site. Mr. Lloyd noted the lease has been signed and the Board needs to move on. Dr. Condon agreed. She objected to the costs of the decision to move to the Glendale site be put on the students by increasing fees. The analysis could include inflationary issues, improving testing efficiency, and other impacts. Mr. Lloyd noted the increase is in line with other agencies; Ms. Gadinis agreed. If fees are raised, they would take affect in approximately 6 to 9 months.

Public comment:

Jerry Tyler, Carlton Hair International, noted the Board needs to look at their costs yearly to ensure they are covered. He reviewed other states' fees. Staff work also needs to be looked at.

Legal counsel discussed the fee increase. Mr. Hedges suggested the Board allow an increase of rates up to the actual cost of the examination but not to exceed the inflation rate. The current cost is \$93, however Dr. Condon noted this is based on costs that may be changed in the future including the change in vendor. Legal counsel recommended the Board direct staff to develop regulatory language with a non specific cost to start the process. Dr. Condon did not feel there is enough information to pass the large increase proposed at this time. Again, the motion on the floor was to delay implementation of the fee increase and conduct further study of the fee schedule.

e. Continuing Education Discussion and Presentation: Jerry Gardner of Elite CME, Inc., gave a presentation to the board on continuing education practices throughout the United States. His company provides continuing education via internet and correspondence. He discussed strong reasons for continuing education to resolve ongoing problems. Many states are moving towards continuing education. His discussion included the need for continuing education (health and sanitation issues, safety), the states that have continuing education (changes annually; some allow internet/correspondence, some classroom only), the requirements, classroom vs. correspondence (internet more convenient and cost effective). Legislation may be needed to implement the continuing education requirement. He discussed methodology to provide continuing education including internet, correspondence, classroom, and video. At this time, the number of hours required by states runs from 6 to 16 every two years.

f. Independent Contractor Discussion: Ms. Gadinis reviewed the committee's discussion regarding independent contractors. She discussed independent contractors (booth

renter) in the industry. She recommended they also be required to acquire an establishment license, act like a business and follow all the same rules as a business. She made the motion to establish a task force to study this issue. The motion was seconded to facilitate discussion. Dr. Condon did not feel the agenda clearly showed there would be action on this item today; legal counsel verified action could be taken today. She believed if the issue had been clearly identified on the agenda, people would have been here to speak. She recommended placing it on the next agenda for a thorough discussion. Mr. Lloyd felt a task force is needed to outline the liabilities of the owner and booth renters and other issues. Mr. Hedges firmly noted someone has to be responsible. The motion was not passed by a vote of 2 to 5.

6. Agenda Item #6, REPORT OF THE ENFORCEMENT AND INSPECTIONS PROGRAMS

a. Status of Review of the Administration Fine Schedule: Ms. Underwood reported staff is asking the Board to establish the task force to review and make recommendations on the administrative fine schedule and regulations. Again, Dr. Condon did not feel the agenda clearly identified the action today; however legal counsel did not feel the establishment of a task force required specific identification. A motion was made and seconded to approve the staff's recommendation to establish the task force.

Public comment:

Fred Jones, Professional Beauty Federation of California, spoke in favor of the task force. It is important the inspectors establish a good working relationship with the schools. Students should not be accountable as they are still learning and do not possess a license. Inspectors should be partners with schools when they go into a classroom setting.

Peter Westbrook, Riverside Community College, has found the inspection process at schools is a welcome thing and provides education to the students about the inspection process.

Glenda Day, Fullerton College, confirmed her school has not had any bad experience with an inspector.

James Knauss, California Barber College Association, reiterates that the role of the inspector is to teach and protect the public, not just to write citations.

Linda Lamb, Redondo Beach Beauty College, noted she has never encountered any problems with inspectors. They do their job. Footspa regulation needs to be aggressively resubmitted.

Yolanda Duran, Career Academy College, commended the board for increasing the number of inspectors. She welcomes inspectors into her schools. The institution and/or instructors should be held responsible and fined, not the students.

Nina Motruk, Cerritos College, had a positive experience with an inspector who took the time to discuss issues with the students and the school. The school was fined, not the students.

The motion to develop the task force was passed by a unanimous vote.

b. Enforcement Program Workload Statistics: Ms. Underwood reviewed the workload statistics as of September 30, 2005.

7. Agenda Item #7, REPORT OF THE DISCIPLINARY REVIEW COMMITTEE

Mr. Gonzalez reported on the disciplinary review committee. They started with 1,800 cases, and have been working diligently to clear these cases. Less than 300 backlogged cases are projected by the end of the fiscal year. Mr. Hedges noted it is important to assess the fine as close to the citation as possible to help the violator learn. Staff was complimented for their hard work.

Public Comment:

Peter Westbrook, Riverside Community College, commended the committee for their hard work.

8. Agenda Item #8, STATUS OF SUNSET REPORT

No status report at this time.

9. Agenda Item #9, COMPUTER BASED TESTING

a. Update of the Request for Proposal: Staff did go through the non competitive bid process to ensure computer based testing is not lost during the period of the RFP. The RFP has not yet been published; staff is waiting for response from the Office of Examination Resources. Mr. Gonzalez suggested a possible conflict of interest exists. Legal counsel did not recall his request for a legal opinion. Mr. Lloyd noted only accusations have been addressed, not concrete evidence. An investigation needs to be conducted at the direction of the board. Mr. Hedges reiterated the issue needs to be resolved and moved forward.

Public comment

Leanne Patterson, public attendee, noticed the pass/failure rate has increased with computer based testing. She cited Business and Professions Code 7341, which states a student who fails the exam has the right to inspect the examination papers. Her requests have been denied in the past. Dr. Condon believed this was eliminated when computer based testing was implemented. Mr. Gonzalez recommended it be included in the new RFP. Further discussion is needed. It will be agendized for the next Licensing and Examination Committee.

b. Status of the CBT Budget Change Proposal: No report at this time.

Due to the fullness of the agenda, Dr. Condon asked the Board to delay items #10 to #14 to next month's meeting. The Board agreed. The meeting was adjourned for lunch break at 1:05 p.m.

10. Agenda Item #10, UPDATE ON NEWSLETTER (deferred)

11. Agenda Item #11, UNLICENSED ACTIVITY REPORT AND RECOMMENDATIONS (deferred)

12. Agenda Item #12, EXAMINATION SITE PROCEDURES (deferred)

13. Agenda Item #13, STATUS OF LEASE AT THE FAIRFIELD EXAMINATION FACILITY (deferred)

14. Agenda Item #14, REVIEW AND APPROVAL OF THE SAFETY AND SANITATION EXAMINATION PLAN (deferred)

The meeting was readjourned at approximately 1:50 p.m.

15 Agenda Item #15, DECISION ON FUTURE BOARD MEETING DATES AND LOCATIONS

Ms. Underwood presented a calendar to the Board to discuss future meeting dates and locations. It was agreed a limited agenda item meeting be held in December in Sacramento. December 5th was recommended. The calendar will be finalized at that time.

16. Agenda Item #16, PUBLIC COMMENT

Linda Lamb, Redondo Beach Beauty College, commented regarding retesting and the long delays between testing.

17. Agenda Item #17, AGENDA ITEMS FOR NEXT MEETING

Current items 10, 11, 12, 13 and 14 will be agendized for the December meeting. Public hearing for pre-application for apprentices.

18. Agenda Item #18, PETITION FOR REINSTATEMENTS

The administrative law judge conducted the proceedings for petition for reinstatements.

**Menranghiz Saghizadeh
Loan Thi Phan
Dong Do**

CLOSED SESSION

19. Decision on Reinstatement and Disciplinary Cases

20. Discussion on the Selection of Executive Officer

OPEN SESSION

21. Adjournment